

# HOUSE BILL 398

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By: **Delegates Niemann, Afzali, Barnes, Clippinger, Dumais, Frush, Hough, Lee, McDermott, Parrott, Ready, Simmons, Smigiel, Sophocleus, Valderrama, Valentino-Smith, Vallario, and Wilson**

Introduced and read first time: February 1, 2012

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Wiretapping and Electronic Surveillance – Investigation of Theft Scheme**

3 FOR the purpose of adding theft offenses committed under one scheme or continuing  
4 course of conduct under a certain provision of law to those crimes for which  
5 evidence may be gathered by, and a judge may grant an order authorizing,  
6 interception of oral, wire, or electronic communications; and generally relating  
7 to wiretap and electronic surveillance and theft schemes.

8 BY repealing and reenacting, with amendments,  
9 Article – Courts and Judicial Proceedings  
10 Section 10–402(c)(2) and 10–406(a)  
11 Annotated Code of Maryland  
12 (2006 Replacement Volume and 2011 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
14 MARYLAND, That the Laws of Maryland read as follows:

15 **Article – Courts and Judicial Proceedings**

16 10–402.

17 (c) (2) (i) This paragraph applies to an interception in which:

18 1. The investigative or law enforcement officer or other  
19 person is a party to the communication; or

20 2. One of the parties to the communication has given  
21 prior consent to the interception.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) It is lawful under this subtitle for an investigative or law  
2 enforcement officer acting in a criminal investigation or any other person acting at the  
3 prior direction and under the supervision of an investigative or law enforcement officer  
4 to intercept a wire, oral, or electronic communication in order to provide evidence:

5 1. Of the commission of:

6 A. Murder;

7 B. Kidnapping;

8 C. Rape;

9 D. A sexual offense in the first or second degree;

10 E. Child abuse in the first or second degree;

11 F. Child pornography under § 11-207, § 11-208, or §  
12 11-208.1 of the Criminal Law Article;

13 G. Gambling;

14 H. Robbery under § 3-402 or § 3-403 of the Criminal  
15 Law Article;

16 I. A felony under Title 6, Subtitle 1 of the Criminal Law  
17 Article;

18 J. Bribery;

19 K. Extortion;

20 L. Dealing in a controlled dangerous substance,  
21 including a violation of § 5-617 or § 5-619 of the Criminal Law Article;

22 M. A fraudulent insurance act, as defined in Title 27,  
23 Subtitle 4 of the Insurance Article;

24 N. An offense relating to destructive devices under §  
25 4-503 of the Criminal Law Article;

26 O. A human trafficking offense under § 11-303 of the  
27 Criminal Law Article;

28 P. Sexual solicitation of a minor under § 3-324 of the  
29 Criminal Law Article;

1 Q. An offense relating to obstructing justice under §  
2 9–302, § 9–303, or § 9–305 of the Criminal Law Article;

3 R. Sexual abuse of a minor under § 3–602 of the  
4 Criminal Law Article; [or]

5 S. **A THEFT OFFENSE UNDER ONE SCHEME OR**  
6 **CONTINUING COURSE OF CONDUCT UNDER § 7–103(F) OF THE CRIMINAL LAW**  
7 **ARTICLE; OR**

8 T. A conspiracy or solicitation to commit an offense listed  
9 in items A through [R] S of this item; or

10 2. If:

11 A. A person has created a barricade situation; and

12 B. Probable cause exists for the investigative or law  
13 enforcement officer to believe a hostage or hostages may be involved.

14 10–406.

15 (a) The Attorney General, State Prosecutor, or any State's Attorney may  
16 apply to a judge of competent jurisdiction, and the judge, in accordance with the  
17 provisions of § 10–408 of this subtitle, may grant an order authorizing the interception  
18 of wire, oral, or electronic communications by investigative or law enforcement officers  
19 when the interception may provide or has provided evidence of the commission of:

20 (1) Murder;

21 (2) Kidnapping;

22 (3) Rape;

23 (4) A sexual offense in the first or second degree;

24 (5) Child abuse in the first or second degree;

25 (6) Child pornography under § 11–207, § 11–208, or § 11–208.1 of the  
26 Criminal Law Article;

27 (7) Gambling;

28 (8) Robbery under § 3–402 or § 3–403 of the Criminal Law Article;

29 (9) A felony under Title 6, Subtitle 1 of the Criminal Law Article;

1 (10) Bribery;

2 (11) Extortion;

3 (12) Dealing in a controlled dangerous substance, including a violation  
4 of § 5–617 or § 5–619 of the Criminal Law Article;

5 (13) A fraudulent insurance act, as defined in Title 27, Subtitle 4 of the  
6 Insurance Article;

7 (14) An offense relating to destructive devices under § 4–503 of the  
8 Criminal Law Article;

9 (15) A human trafficking offense under § 11–303 of the Criminal Law  
10 Article;

11 (16) Sexual solicitation of a minor under § 3–324 of the Criminal Law  
12 Article;

13 (17) An offense relating to obstructing justice under § 9–302, § 9–303,  
14 or § 9–305 of the Criminal Law Article;

15 (18) Sexual abuse of a minor under § 3–602 of the Criminal Law  
16 Article; [or]

17 (19) **A THEFT OFFENSE UNDER ONE SCHEME OR CONTINUING**  
18 **COURSE OF CONDUCT UNDER § 7–103(F) OF THE CRIMINAL LAW ARTICLE; OR**

19 **(20)** A conspiracy or solicitation to commit an offense listed in items (1)  
20 through [(18)] **(19)** of this subsection.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2012.